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C O N F I D E N T I A L SECTION 01 OF 03 FREETOWN 000113

SIPDIS

DEPARTMENT FOR AF/W (JHUNTER/ESPRUILL)
EMBASSY BRUSSELS FOR DEA (TSCARANTINO)
DOJ/DEA/OS/OSE (MCMANAMON/LENARTOWICZ)

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TAGS: [PGOV](#) [SNAR](#) [KJUS](#) [SL](#)
SUBJECT: COCAINE CASE CLOSES: WILL OUR WINDOW OF
OPPORTUNITY FINALLY OPEN?

REF: A. FREETOWN 78
[1](#)B. FREETON 99
[1](#)C. FREETOWN 103

Classified By: Ambassador June Carter Perry for reasons 1.4 (b/d)

[1](#)1. (C) Summary: The cocaine case closed on March 23, following final statements from the Department of Public Prosecutions (DPP) and the defense teams. Justice Browne-Marke adjourned the court, stating that he would reconvene no later than four weeks from now to render his decision. While the defense made a strong showing during the final arguments, the DPP continued to fail to impress; court insiders noticed that the DPP seemed unmotivated and unprepared throughout the trial, and that the poor performance on the 23rd will do little to counteract defense arguments for acquittals across the board. State House, likely distracted by political disturbances both within and between parties, has kept quiet on their plans to move forward on USG expulsion requests (reftel A). However, a meeting with a high-level State House insider on March 23 indicated that they remain committed to the expulsions and intend to move forward quickly. Post expects more information NLT March 25 regarding logistics and timing. End Summary.

DPP FLOUNDERS AS DEFENSE PULLS OUT ALL THE STOPS

[1](#)2. (U) Browne-Marke heard the final arguments from both sides on March 23, with the DPP giving a short summary of the evidence they presented for each defendant. The defense teams then presented their rebuttals, with senior attorneys C.F. Edwards and Roland Wright leading the charge; the junior attorneys representing other defendants primarily deferred to Edwards' and Wright's arguments for their own clients. Wright suggested that the cases should be acquitted on technicalities: he demonstrated that the police did not follow the law with regards to evidence collection and maintaining the chain of custody. Wright also questioned the validity of many DPP witness statements, highlighting inaccuracies and inconsistencies. Edwards, attorney for George Aritstizabel Archilla, said that the case against his client should be dropped because his statement was taken under duress and without effective interpretation. He maintained that Archilla and the two other pilots (Victor Manuel Araujo Lastreto and Julio Cesar Morales-Cruz), were never told what they were transporting and thus were not part of a conspiracy. Edwards also argued that Count IV, Possession of Cocaine, should be thrown out for the pilots, because cocaine was never found on their person. He concluded his defense of Archilla by saying that his client did not refer to "cocaine," "narcotics," or "Sierra Leone" in his official statement, and that the faulty interpretation made

it impossible for his client to address these inaccuracies. Edwards said that Archilla and others gave statements because they were promised that they would then be deported, rather than tried for criminal offenses. Browne-Marke made no sign that he agreed with Edwards' arguments, and told him that Count IV will continue to stand.

¶3. (C) Edwards' discussion of Count V, Conspiracy, was seized on by other defense lawyers, and presented for all of the defendants. Beyond the pilots' lack of knowledge of their cargo, Edwards contended that none of the defendants were aware of a larger criminal enterprise, and essentially played their roles in a vacuum from the others involved. Focusing on Archilla, he said that the pilots made an emergency landing in Sierra Leone due to lack of fuel, rather than a pre-planned meeting. This alone, he said, proves that a conspiracy was not at work. The other defense lawyers essentially told the Justice that Edwards' submission for Count V would serve for their clients as well (Note: Edwards' argument is inherently illogical and runs counter to much of the evidence presented in the case. However, the DPP has not used the evidence effectively to prove conspiracy, and there is a strong possibility that this charge will be thrown out. End note).

¶4. (U) Due to the structure of the closing arguments, the DPP had no final opportunity to refute the defense's claims. The defense rested their case by highlighting what the DPP did not say in his final comments -- he did not ask the Justice to find the defendants guilty on all counts. This odd diversion from the norm provided a further opportunity for the defense to discredit the DPP, saying that even the

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government's attorney recognizes that he has no case against their clients.

THE SESAY BROTHERS

¶5. (C) Wright, arguably the strongest criminal defense attorney in the country, is acting exclusively on behalf of Ahmed Sesay, though the other defense lawyers have frequently co-opted his strategies. Sesay appears poised for a full acquittal, if court insiders are to be believed; Wright's final speech left a strong impression, not only questioning the validity of the entire case, but also highlighting the DPP's ineptitude and failure to undermine Sesay's alibis on July 13. Sesay is generally considered innocent in the court of public opinion, and he continues to have support behind closed doors from government officials and APC stalwarts. Though Wright has been the overall defense team's brightest star, a possible Sesay acquittal should not necessarily be attributed solely to his legal acumen: the DPP's shoddy performance, including failure to call needed witnesses, bungling of certain charges, and general lack of preparedness, could have been "purchased" by Sesay supporters or Sesay himself. The other Sierra Leonean defendants lack the authority, wealth, and private support that Sesay has; he is the only Sierra Leonean likely to be receiving external assistance.

¶6. (C) Per reftel C, Browne-Marke noted on March 16 that Ibrahim Kemoh Sesay, Ahmed Sesay's cousin (Note: The familial lines are often blurred in Sierra Leone, and Ibrahim and Ahmed consider themselves brothers. End Note), should have either been charged or called by the DPP as a rebuttal witness. The former Minister of Transport has been kept far away from the public eye since the trial began, though APC heavyweights are frequently seen leaving his home. If Ahmed is acquitted, Kemoh will likely resurface, and post expects agitation from their home district, Port Loko, for his reinstatement to a position of power. While post had previously asserted that the Sesays may be important enough within the APC government that they would likely be shielded

from expulsion in the case of an indictment in a U.S. court, this reasoning could be reversed if Ahmed is acquitted. The APC will seek to protect their own reputation if one of the principle donors to the campaign of their 2007 presidential candidate (and now President) Ernest Koroma, is convicted, and likely refuse to release either Kemoh or Ahmed for fear of more scandal. If he is acquitted, however, this danger disappears. Even if a U.S. court indicts Ahmed and Kemoh, the APC can assert plausible deniability of these separate criminal actions. They may even welcome the removal of the Sesays from their jurisdiction and distance between them and the virulent Sierra Leonean press. Though an acquittal for Ahmed would be a dismal failure for the Sierra Leonean justice system, it could provide an opportunity for the USG to indict and try him and his cousin.

WAITING ON THE PRESIDENT: WHAT HAPPENS NOW?

17. (C) DCM met with a high-level government contact on March 23 to discuss the pending expulsion request. The contact seemed positive that the request will be honored in short-order, and told the DCM to expect information about the time-frame within the next 24 hours (Note: The meeting took place before Browne-Marke's four-week adjournment. It is unclear how the adjournment could impact their intent to move the three individuals in question prior to the judgment, but Post believes that a work-around will be identified soonest. End Note). The contact told the DCM that Browne-Marke could make whatever decision the President wanted, whenever he wanted it, but did not elaborate further on the timing or content of the judgment. Post will suggest that Browne-Marke issue his decisions regarding Perez, Quintana-Perez, and Romeo as soon as possible, followed by their expulsions, and the contact's comments about the Justice imply that he would be amenable to such a suggestion. However, the Attorney-General (AG) remains a nagging problem. The contact revealed that the AG is still unaware of the expulsion requests, despite the fact that he will likely have to be the one to prepare the legal documentation for their release into U.S. custody. Given the AG's temperamental personality, tendency to undermine Presidential authority, and general unwillingness to be anything more than a thorn in the

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government's side, it is hard to predict how he will react to the news, and what roadblocks he might try to place in our path.

COMMENT

18. (C) Post remains optimistic that the expulsions will be executed soon, and speculates that the President may want them to take place prior to the APC party conference, tentatively scheduled for April 14. If the operation runs smoothly, Koroma stands to reap considerable positive press at a time when he desperately needs it; Koroma has not been seen to effectively handle the APC-SLPP clashes that took place on March 13 and 16 (reftel B), dissatisfying Sierra Leoneans across party lines. With factions within his own party seeking his downfall as Head of State, Koroma needs tangible successes to buoy him as he prepares to defend his position as APC Chairman, and his right to run for re-election under the APC banner in 2012. This need, however, could be his downfall in negotiating with the AG. If the AG has political motivations for stopping or delaying the expulsions, he will most certainly do so. Post awaits more information regarding how Koroma will handle this potential problem, and will continue providing support to him and his advisors to enable swift action. Further information on logistics will be provided to DEA as soon as it becomes available. End Comment.

PERRY